

JAN 16 2008

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FEDERAL ELECTION COMMISSION
SECRETARIAT
BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

1 In the Matter of)
2)
3)
4)
5 MUR 5953)
6 RICHARD ANDREWS)
7 END FUNDING FOR THE IRAQ WAR)
8)
9)

2008 JAN 16 P 4: 28
CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

11 Under the Enforcement Priority System, matters that are low-rated

12
13 are forwarded to the Commission with a recommendation for dismissal. The
14 Commission has determined that pursuing low-rated matters compared to other higher rated
15 matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to
16 dismiss these cases.

17 The Office of General Counsel scored MUR 5953 as a low-rated matter. In this case,
18 the complainant, Christine Gardner Gould, alleged that she received a letter from an entity
19 known as "End Funding for the Iraq War," which urged her, as a "Mark Udall Supporter," to
20 contact U.S. Representative Mark Udall and ask him to vote against the next supplemental
21 appropriation bill and vote for an order that troops withdraw from Iraq.¹ Complainant further
22 alleges that Richard Andrews, one of the signatories to the letter, informed her in a follow up
23 telephone conversation that he obtained her name and address from FEC contribution records
24 and sent her the letter because she had contributed to the Udall for Colorado campaign.
25 Complainant claims that the respondents obtained her name and address from FEC

¹ Respondent, End Funding for the Iraq War, is not registered as a political committee with the Federal Election Commission or the Colorado Secretary of State Elections Division.

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1 contribution records in violation of the Commission's sale and use prohibitions. See 2
2 U.S.C. § 438(a)(4).

3 Richard Andrews, who responded to the complaint on behalf of respondents,
4 acknowledged sending the letter to the complainant and obtaining the complainant's name
5 and address from disclosure reports filed with the FEC. He noted that the letter did not
6 solicit any type of contribution or donation, was not used for any commercial purpose, and
7 that the names and addresses obtained from the FEC records were not sold. Furthermore, the
8 respondents submit that the letter was not related to any election campaign, and that it was
9 solely limited to a "civic and non-partisan issue," i.e., the federal funding for the Iraq war.
10 Thus, the respondents contend that the letter in question was sent in compliance with the
11 Federal Election Campaign Act of 1971 and the Commission's regulations.

12 The letter seems to be a limited mailing that was not carried out for a commercial
13 purpose or solicitation. In the absence of additional information this matter appears to be de
14 minimis in nature and, therefore, not suitable for further Enforcement action.

15 Accordingly, in light of the apparent de minimis nature of the allegations, and in
16 furtherance of the Commission's priorities and resources, relative to other matters pending on
17 the Enforcement docket, the Office of General Counsel believes that the Commission should
18 exercise its prosecutorial discretion and dismiss the matter. See *Heckler v. Chaney*, 470 U.S.
19 821 (1985).

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RECOMMENDATION


The Office of General Counsel recommends that the Commission dismiss MUR 5953, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

Thomasenia P. Duncan
General Counsel

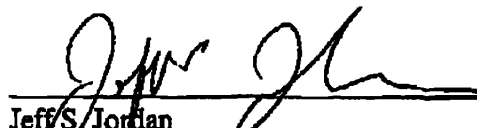
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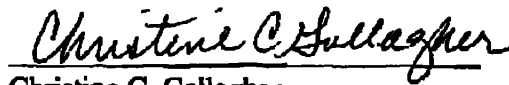
BY:



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Christine C. Gallagher
Attorney

Attachments:

1. Narrative in MUR 5953

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4 **MUR 5953**

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6 **Complainant:** Christine Gardner Gould

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8 **Respondents:** Richard Andrews
9 End Funding for the Iraq War

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11 **Allegations:** The complainant, Christine Gardner Gould, alleged that she received a
12 letter from an entity known as "End Funding for the Iraq War," which urged her, as a
13 "Mark Udall Supporter," to contact U.S. Representative Mark Udall and ask him to vote
14 against the next supplemental appropriation bill and vote for an order that troops
15 withdraw from Iraq. Complainant further alleges that Richard Andrews, one of the
16 signatories to the letter, informed her in a follow up telephone conversation that he
17 obtained her name and address from FEC disclosure reports and sent her the letter
18 because she had contributed to the Udall for Colorado campaign. Complainant claims
19 that the respondents obtained her name and address from FEC contribution records in
20 violation of the sale and use provision of the Act.

21
22 **Response:** Richard Andrews, who responded to the complaint on behalf of respondents,
23 acknowledged sending the letter to the complainant and obtaining the complainant's
24 name and address from the Commission's disclosure database. He noted that the letter
25 did not solicit any type of contribution or donation, was not used for any commercial
26 purpose, and that the names and addresses obtained from FEC records were not sold.
27 Respondents allege that the letter was not related to any election campaign, and that it
28 was solely limited to a "civic and non-partisan issue," i.e., the federal funding for the Iraq
29 war. Thus, respondents contend that the letter in question was sent in compliance with
30 the Act and the Commission's regulations.

31
32 **General Counsel's Note** It should be noted that there is no available information
33 suggesting that the complainant's name and address were sold or used to solicit any
34 contributions or donations, or for any commercial purpose. Given the de minimis nature
35 of the allegations, this Office has decided to recommend the matter be dismissed without
36 reaching the merits of the case.

37
38 **Date complaint filed:** November 13, 2007

39 **Response filed:** December 5, 2007